

PLANNING BOARD MINUTES

April 28, 2014

Call The Meeting to Order

Chairman David Plunkett called the meeting to order at 7:05 P.M. in the new Town Hall Auditorium. Present at the meeting were Robert Fowler, Stephen Johnson, Nancy Reed, Vincent Fratalia, Director of Community Development Steve Sadwick and Recording Secretary Dawn Cathcart.

(A) Approval of Minutes – April 7, 2014

MOTION - Mr. Fratalia made a motion to approve the minutes of April 7, 2014 as presented. The motion was seconded by Mr. Johnson and unanimously voted 5-0. Mr. Plunkett stated that he is abstaining from voting for Agenda Item B5 due to the fact he did not participate in that discussion.

(B) Committee Reports/Administrative Actions

(B1) Zoning Bylaw Subcommittee

Mr. Sadwick stated that he would like to schedule the next subcommittee meeting for May 12, 2014 after the regular Planning Board meeting.

(B2) Master Plan

Mr. Sadwick stated that the RFP has gone out. It will be advertised in the paper for two weeks and will be closed on the last Friday in May.

(B3) Committee Reports

Mrs. Reed stated that there will be a CPC article for the Town Hall renovation. The original article was for \$825,000. This will be amended to \$1,412,000 this was due to an increase in projected cost.

Mr. Fowler asked what the total time frame will be for the Town Hall project. Mrs. Reed stated that it will be a 12 to 18 month project. Mr. Plunkett asked what the total of the project will cost. Mrs. Reed replied \$7,500,000.

MOTION - Mr. Fowler made a motion to recommend adoption of the amended CPC article at Town Meeting. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

(B4) 2087 Main Street, Merrimack Valley Pavilion (MVP) – Non-Substantial Determination

Gary Brown, owner of MVP appeared for a non-substantial determination. Mr. Brown stated that there is a grass area to the left of the golf course. He would like to add a potential activity. He is looking at one of three options. The first is a stunt jump, the second is a play gym and the third would be a trampoline park to draw in 3 to 7 year olds.

Mr. Plunkett asked if there has been any internal review from Town departments. Mr. Sadwick replied no, he and the Building Commissioner met onsite and thought it would be best for Mr. Brown to come into the Board because the original plan only showed mini-golf.

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Mr. Fowler stated that he has seen the stunt jump in Maine and as long as there are the proper personnel in place, it is a very safe activity. Mr. Fowler asked if there would be any lights needed. Mr. Brown stated that he believes he has enough with the building and mini-golf but if he chooses the stunt jump option he may add ground lighting for effect.

Mr. Johnson stated that if the trampolines are chosen, then the railing should be padded. Mr. Brown stated that he saw all these options at a trade show and the trampolines are ground level so there probably won't be a need for railings but they may add a fence to keep people out at night.

Mr. Fratalia asked if there is any history with problems for the stunt jump. Mr. Brown stated that he has been researching it for a while and has found no problems. He will also be working with the Department of Public Safety.

Mrs. Reed asked if there will be a fence needed for any of the options to keep kids out. Mr. Brown stated that the stunt jump deflates, the kids' gym has its own locking gate and the trampoline would require a fence.

Mr. Plunkett stated that there are three different options and each presents different challenges. Mr. Plunkett asked if these uses would generate extra traffic flow onto the site. Mr. Brown stated that they are trying to capture the younger audience and maximum the outdoor space. This activity would be for the months of April through November which is similar to the mini-golf. Mr. Brown added that they have plenty of parking. Mr. Plunkett asked how you access this Phase II area. Mr. Brown stated that there is a brick walkway off the patio now that leads to the area. Mr. Plunkett stated that you need to decide on which option and then come back to the Board with details. Once the decision is made on which option, you should speak with Mr. Sadwick first to see if other Town departments should be consulted.

Mr. Fratalia asked that only one of the options will be done. Mr. Brown replied that was correct.

MOTION - Mr. Fowler made a motion to approve as a non-substantial change one of the three options presented tonight. The applicant is to come back before the Board once the option is chosen with detailed plans. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

(B5) 279 Astle Street, Christa & Sabrina Gillis & Gallway, LLC ANR

Dick Cuoco appeared for an ANR for 279 Astle Street. The Gillis' bought the property a few years back and the deed said that they had an acre of land but when a survey was done it showed that they only had 26,000 SF. The ZBA granted a variance for a lot less than an acre and that was filed on February 12, 2014. As part of that variance, a lot line relocation plan and land swap was to be done. This plan does that.

Mr. Plunkett stated that the frontage is in excess of 150' for both lots and there will be an increase in area on the non-conforming lot from 26,228 SF to 30,000 SF.

MOTION - Mr. Fowler made a motion to endorse the ANR for 279 Astle Street as presented. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

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(C) Continued Zoning Amendment Public Hearing for May 5, 2014 Annual Town Meeting – Articles 26 and 32

Article 26 – Section 6600, Solar Farm (PB)

Mr. Sadwick stated that there were some minor questions from Town Counsel. They were able to correct the article before it was submitted to the warrant for Section 6604 and 6610. The definition for Nameplate Capacity can be found in the State model. Mr. Sadwick stated that the only correction they did not make was to standardize “local electric utility” and “electric utility”. Mr. Plunkett stated that it should be “electric utility” and we can ask that to be corrected as a scrivener’s error.

There was no comment from the audience.

MOTION - Mr. Johnson made a motion to recommend adoption of Article 26 with changing “local electric utility” to “electric utility” as a scrivener’s error. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

Article 32 – Family Suites (O’Neill)

Attorney Richard O’Neill appeared for discussion of Article 32. Attorney O’Neill presented a redline copy. Since the last hearing he spoke with the Building Commissioner and he preferred that instead of everyone coming for a Special Permit, there be an option for by-right family suites with either a restriction and subordination agreement (if needed) or a Special Permit. The added enforcement for annual certification has been added and the addition of #14 will allow the Planning Board to handle with Special Permit conditions such as other estate planning entities such as a LLCs or Trustees.

Robert Scarano of 1147 Main Street – Mr. Scarano stated that one thing that was missing was a description of owner. Estate planning has changed where before it would be an individual or husband and wife had ownership but now it is LLCs and Trusts. The ownership is irrelevant. The restriction is the key element. If the property is in a Trust then they can show a trustee certificate. If it is held in an LLC, then a manager certificate can be provided.

Mr. Plunkett stated that he thought the issue was that people couldn’t get subordination agreements signed. Attorney O’Neill replied that is correct but when he spoke with the Building Commissioner he wanted them to have an option. Mr. Sadwick stated that he also spoke with the Building Commissioner and he did want to give owners the option for a by-right family suite. This version does not caption the option. Mr. Plunkett stated that he doesn’t see in the bylaw where the definition of owner is clearly defined. Mr. Johnson stated that the issue about ownership (LLC, Trusts) can only be done with a Special Permit. Mr. Scarano replied that was correct.

Mrs. Reed asked why we would give an option. Mr. Plunkett stated that there could be instances that the mortgage is held at a local bank where you can actually speak with someone. Ms. Cathcart also stated that there are also times with a by-right family suite that there is no mortgage involved so they would just need a restriction agreement.

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Mr. Plunkett stated that he would suggest adding the following to section 11 was as follows: “including but limited to provisions calling for the termination of the Special Permit and all rights granted thereunder in the event of a foreclosure sale of the premises for which the Special Permit has been granted by a Mortgagee or any lien holder of record with priority over said Special Permit.”

MOTION - Mr. Fowler made a motion to continue the public hearing for Article 32 until May 5, 2014 at 7:30 PM at Tewksbury Memorial High School. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

(D) 1 Radcliff Road, VTH 7, LLC Site Plan Special Permit

Mr. Plunkett stated that the applicant has requested a continuance until May 12, 2014.

MOTION - Mr. Fowler made a motion to waive the reading of the public hearing notice. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

MOTION - Mrs. Reed made a motion to continue the Site Plan Special Permit for 1 Radcliff Road until May 12, 2014 at 7:15 PM. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

(E) 842 East Street, Bella Woods Amended Site Plan Special Permit

MOTION - Mr. Johnson made a motion to waive the reading of the public hearing notice. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

Arnie Martel and Dick Cuoco appeared for the amended Site Plan Special Permit for Bella Woods. Mr. Cuoco stated that Mr. Martel has bought the properties in the front of Bella Woods so he is increasing the acreage from 25.5 to 28 acres. This would allow for 172 units to be built but he is requesting increasing the number of units from 117 to 143. Mr. Cuoco stated that the loop road in Phase II will also have porous pavement and the Fire Department has agreed that this loop road will provide adequate access for the fire apparatus. The utilities for these areas have already been stubbed off. Mr. Cuoco stated that the porous pavement is working well. There have been 13 significant water events and there have been no puddles. Mr. Cuoco stated that they will be asking for the same waiver that was in the original permit with 2' of separation and the dimensional waivers between the buildings.

Mr. Cuoco stated that as soon as the existing homes are vacated, they will be torn down and the area will be graded and a stone-wall will be installed.

Mr. Fratalia asked when the project will be completed. Mr. Martel replied his best guess is within three years.

Mrs. Reed asked if you will also be requesting a fee in lieu of waiver for the affordable units. Mr. Martel replied yes.

Mr. Johnson stated that he will wait for comments to come back from the engineers.

MOTION - Mr. Fowler made a motion to continue the amended site plan special permit for Bella Woods until May 12, 2014 at 7:20 PM. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

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Old Business

There is no old business.

New Business

There is no new business.

Director's Report

There was no Director's Report.

Adjournment

MOTION - Mr. Fowler made a motion to adjourn the meeting at 8:30 PM. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

Approved on: 6/2/14

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List of documents for 4/28/14 Agenda

Documents can be located at the Community Development Office

- A. 7:00** Approval of Minutes – April 7, 2014
- B. 7:00** Committee Reports/Administrative Actions
- 1- Zoning Bylaw Subcommittee
 - 2- Master Plan
 - 3- Committee Reports
 - 4- 2087 Main Street, Merrimack Valley Pavilion
Non-Substantial Determination
 - *Application packet received 4/17/14.*
 - 5- 279 Astle Street, Christa & Sabrina Gillis & Gallway, LLC
ANR
 - *Form A Application packet received 4/22/14.*
- C. 7:00** Continued Zoning Amendment Public Hearing for May 5, 2014
Annual Town Meeting – Articles 26 and 32
- *Article 26 – Section 6600, Solar Farm - Town Counsel Comments from 4/7/14 correspondence:*
 - *Section 6602: Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).*
 - *Section 6604: Corrected.*
 - *Section 6610 Corrected.*
 - *Did not change “local electric utility” and “electric utility”*
 - *Article 32 – Section 3400-Family Suite (O’Neill)*
 - *Copy of Section 3400 Family Suite Article (changes are underlined).*
- D. 7:00** 1 Radcliff Road, VTH 7, LLC
Site Plan Special Permit
(Applicant requesting to be continued to May 12, 2014.)
- *Email dated 4/24/14 – requesting to be continued to May 12, 2014.*
- E. 7:15** 842 East Street, Bella Woods
Amended Site Plan Special Permit
- *Application packet dated 3/21/14*
 - *IDR held on April 15, 2014.*
 - *Review letter from GCG Associates dated 4/15/14.*
 - *Review memo from Town Engineer dated 4/15/14.*
 - *Review letter from Cuoco & Cormier dated 4/23/14.*